

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

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|--------------------------------------|---|---------------------|
| AGROFRESH INC., |) | |
| |) | |
| Plaintiff, |) | |
| |) | C. A. No. 16-662-MN |
| v. |) | |
| |) | |
| ESSENTIV LLC, DECCO U.S. POST- |) | |
| HARVEST, INC., CEREXAGRI, INC. d/b/a |) | |
| DECCO POST-HARVEST, and UPL Ltd., |) | |
| |) | |
| Defendants. |) | |
| |) | |

**DEFENDANTS’ UNOPPOSED MOTION FOR APPROVAL OF BOND AND
STAY OF EXECUTION AND ENFORCEMENT OF JUDGMENT**

Pursuant to Rule 62(b) of the Federal Rules of Civil Procedure, Defendants Decco U.S. Post-Harvest, Inc. and UPL Ltd.’s (collectively, “Defendants”) hereby move this Court to approve Defendants’ posting of a bond in the amount of \$14,337,421.00 (the “Bond) and to stay execution or enforcement of the Judgment (D.I. 654), to the extent necessary, until the completion of the parties’ appeals to the United States Court of Appeals for the Federal Circuit. In support of this motion, Defendants respectfully state the following:

1. On December 18, 2020, the Court entered judgment against Defendants in the amount of \$13,824,517.00, plus post-judgment interest at the rate of 1.59% (the “Judgment”). The parties stipulated to a partial final judgment on all claims tried pursuant to Fed. R. Civ. P. 54(b) to permit the parties to proceed with an appeal of all tried claims. D.I. 654.

2. On December 18, 2020, Plaintiff AgroFresh, Inc. (“Plaintiff”) filed an appeal to the United States Court of Appeals for the Federal Circuit of the Court’s Final Judgment. D.I. 655. On January 15, 2021, Defendants filed a cross appeal to the United States Court of Appeals for the Federal Circuit of the Court’s Final Judgment. D.I. 661.

3. Federal Rule of Civil Procedure 62(b) provides that “[a]t any time after judgment is entered, a party may obtain a stay by providing a bond or other security. The stay takes effect when the court approves the bond or other security and remains in effect for the time specified in the bond or other security.”

4. On March 12, 2021, Defendants filed an emergency motion to stay execution of judgment in anticipation of Defendants obtaining a Bond pursuant to Federal Rule of Civil Procedure 62(b). D.I. 668.

5. On March 12, 2021, Defendants obtained a Bond in the amount of \$14,337,421.00, with Atlantic Specialty Insurance Company serving as a surety. A true and correct copy of the bond is being lodged with the Court contemporaneously herewith.

6. The amount of the Bond includes the amount of damages awarded in the Judgment (\$13,013,000.00), plus pre-judgment interest in the amount of \$811,517.00 and post-judgment interest at the rate of 1.59% calculated up to March 15, 2022 in the amount of \$512,904.00.

7. The character of the surety and the amount of the bond, including post-judgment interest for the anticipated duration of the parties’ appeals to the United States Court of Appeals for the Federal Circuit, provide ample protection to Plaintiff during any pending appeal.¹

8. Pursuant to Local Rule 7.1.1 on March 15, 2021, Defendants contacted Plaintiff regarding the matters set forth in this motion. Plaintiff indicated that it would not oppose the approval of the Bond and would not oppose the request to stay execution and enforcement of the Judgment pending completion of the parties’ appeals to the United States Court of Appeals for the Federal Circuit, to the extent necessary.

¹ From FY11 to FY20, the median length of an appeal from the district court to the Federal Circuit was 12.5 months. See http://www.cafc.uscourts.gov/sites/default/files/the-court/statistics/06_Med_Dis_Time_MERITS_table.pdf

WHEREFORE, in connection with their request that the Court stay any execution or enforcement of the Judgment (D.I. 668) pending completion of the parties' appeals to the United States Court of Appeals for the Federal Circuit, Defendants hereby request that this Court (i) enter an Order approving the Bond in the amount of \$14,337,421.00; and (ii) stay any execution or enforcement of the Judgment pending completion of the parties' appeals to the United States Court of Appeals for the Federal Circuit, to the extent necessary.

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Dated: March 15, 2021